

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

NATIONSTAR MORTGAGE LLC,

Plaintiff,

v.

CURTI RANCH TWO MAINTENANCE
ASSOCIATION, INC.; SFR
INVESTMENTS POOL 1, LLC,

Defendants.

Case No. 3:17-cv-00699-LRH-CLB

ORDER

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

On October 23, 2019, a bench trial was held on the sole remaining issue before the court: whether Nationstar Mortgage LLC (“Nationstar”) has a property interest sufficient to bring its claims for relief (quiet title) and prove its entitlement to judgment in its favor. ECF No. 131. During the trial, the court reserved ruling on defendant’s, SFR Investments Pool 1, LLC (“SFR”), motion in limine to exclude the corrective assignment recorded July 23, 2018, from evidence (ECF No. 88). *Id.* On the eve of trial, Curti Ranch Two Maintenance Association Inc. (“the Association” or “Curti Ranch”) and Nationstar filed a notice of settlement. ECF No. 129. That same night, SFR filed a “Supplemental Trial Brief” which was actually a motion to dismiss based on the settlement agreement between Curti Ranch and Nationstar. ECF No. 130. As Nationstar was unaware of this filing when the parties met for trial, no argument was heard on the motion, and the court ordered the parties to fully brief the issue. ECF No. 131. During the bench trial, SFR also argued a motion to reconsider the court’s prior ruling that Nationstar’s quiet title claim was governed by a 5-year

1 statute of limitations. *See id.* Nationstar objected to such argument as untimely, but effectively
2 opposed the motion before the court. *Id.* With briefing now complete on SFR's supplemental trial
3 brief, the court rules on all pending issues.

4 **I. STATUTE OF LIMITATIONS**

5 During SFR's oral argument at the bench trial, SFR orally motioned the court to reconsider
6 its prior order on summary judgment (ECF No. 59), in which the court held that a 5-year limitations
7 period exists for Nationstar's quiet title claim. *Id.* Nationstar objected to the motion as untimely,
8 however, the court entertained SFR's argument. Without waiving its objection, Nationstar
9 responded to SFR's argument, and SFR replied. *Id.*

10 As the court found in its order denying Nationstar's motion to reconsider, such a motion to
11 reconsider is untimely. *See* ECF No. 118. SFR has had almost **9 months** to file a motion on the
12 issue: if SFR wished to argue for reconsideration it should have timely filed a motion following
13 the court's January 2019 order. Therefore, consistent with the court's prior order, the court also
14 denies SFR's motion for reconsideration as untimely. Moreover, the court is not persuaded by
15 SFR's argument that a shorter statutory period is applicable: the court maintains that a 5-year
16 statute of limitations period applies to Nationstar's quiet title claim. Accordingly, SFR's oral
17 motion is denied.

18 **II. MOTIONS IN LIMINE**

19 On September 6, 2019, defendant, SFR filed a motion in limine to exclude the "Corrective
20 Corporate Assignment of Deed of Trust," recorded in the Washoe County Recorder's Office on
21 July 23, 2018 as document number 4835207, from evidence presented during trial. ECF No. 88.
22 Plaintiff, Nationstar responded. ECF No. 92. Nationstar filed a motion in limine to exclude
23 reference, testimony, argument and documents concerning prior acts and other properties and
24 litigation (ECF No. 89), to which SFR responded (ECF No. 93). On September 26, 2019, during
25 calendar call, the parties conferred and agreed that a bench trial was appropriate to decide the only
26 remaining issue before the court. ECF No. 106. At the start of the bench trial on October 23, 2019,
27 the court reserved ruling on SFR's motion in limine. ECF No. 131; *see Hawthorne Partners v.*
28 *AT&T Techs., Inc.*, 831 F. Supp. 1398, 1400 (N.D. Ill. 1993) (a court may wait to resolve the

1 evidentiary issues at trial where the evidence can be viewed in its “proper context”). No argument
2 was made at the bench trial as to Nationstar’s motion in limine (ECF No. 89), and SFR did not
3 attempt to introduce the evidence Nationstar sought to exclude.

4 Generally, all relevant evidence is admissible. FED. R. EVID. 402. Evidence is relevant if
5 “it has any tendency to make a fact more or less probable than it would be without the evidence.”
6 FED. R. EVID. 401. The determination of whether evidence is relevant to an action or issue is
7 expansive and inclusive. *See Sprint/United Mgmt. Co. v. Mendelsohn*, 552 U.S. 379, 384-87
8 (2008). However, the court may exclude otherwise relevant evidence “if its probative value is
9 substantially outweighed by the danger of” unfair prejudice. FED. R. EVID. 403. Additionally, “[i]f
10 a party fails to provide information . . . , the party is not allowed to use that information . . . to
11 supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified
12 or is harmless.” FED. R. CIV. P. 37(c)(1).

13 SFR argues that Nationstar failed to disclose this corrective assignment during discovery.
14 As Nationstar indicated, they did not disclose the recorded document during discovery because it
15 was not in existence until after discovery closed on July 5, 2018 (*see* ECF No. 28). The court finds
16 that such a failure to disclose was substantially justified—Nationstar cannot be required to disclose
17 documents that don’t exist. Further, any failure to disclose the assignment was harmless.
18 Nationstar disclosed the corrective assignment on August 2, 2018, over a year before trial. *See*
19 ECF No. 88. If SFR had felt it necessary following this disclosure, it could have motioned the
20 court to re-open discovery, but it did not do so. Therefore, the court cannot find that such late
21 disclosure harmed SFR such that the evidence should be excluded. Accordingly, the court denies
22 SFR’s motion in limine (ECF No. 88) and shall consider the corrective assignment when making
23 its further rulings. Additionally, because SFR did not attempt to introduce the evidence Nationstar
24 sought to exclude, the court denies Nationstar’s motion in limine (ECF No. 89) as moot.

25 **III. FINDINGS OF FACT**

26 **A. Facts Stipulated to by the Parties**

27 1. Nevada adopted the Uniform Common Interest Ownership Act as NRS Chapter 116,
28 including NRS 116.3116(2), in 1991.

1 2. The property at issue in this case, located at 480 Cicada Ct., Reno, Nevada 89521 (“the
2 property”), is subject to the declarations of covenants, conditions, restrictions, reservations, and
3 easements (CC&Rs) recorded by Curti Ranch.

4 3. Homeowner, Mr. Guillermo Carey (non-party borrower), became delinquent on his
5 Association monthly assessments. The Association, through its agent Alessi & Koenig, LLC
6 (“Alessi”), recorded a Notice of Delinquent Assessment (Lien) on November 30, 2010, in the
7 Washoe County Recorder’s Office as document number 3947650. *See* Nationstar Trial Exhibit No.
8 9.

9 4. The Association then recorded, through Alessi, a Notice of Default and Election to Sell
10 under the Homeowners’ Association Lien on February 24, 2011, in the Washoe County Recorder’s
11 Office as document number 3976810. *See* Nationstar Trial Exhibit No. 10.

12 5. Bank of America, N.A., through its attorneys at Miles Bauer Bergstrom & Winters
13 LLP, contacted Alessi on April 5, 2011, and requested a nine-month payoff statement so that it
14 could satisfy the super-priority portion of the Association lien.

15 6. On June 6, 2011, Alessi responded with a total payoff demand for \$2,407. The payoff
16 stated the Association assessments were \$112-per-month. No nuisance abatement charges were
17 included.

18 7. Based on the \$112 monthly assessment amount identified in the June 6, 2011 payoff
19 demand, Bank of America calculated the super-priority portion of the lien as \$1,008, which was
20 the sum of nine-months of common assessments, and sent a check for that amount to Alessi on
21 June 17, 2011.

22 8. Alessi refused to accept Bank of America’s payment, and returned the \$1,008 check.

23 9. On March 13, 2013, the Association, through Alessi, recorded a Notice of Trustee’s Sale
24 in the Washoe County Recorder’s Office as document number 421678. *See* Nationstar Trial
25 Exhibit No. 14.

26 10. Curti Ranch, through Alessi, foreclosed on the property on September 19, 2013. A
27 Trustee’s Deed upon Sale was recorded on September 27, 2013, in the Washoe County Recorder’s
28 Office as document number 4284677. *See* Nationstar Trial Exhibit No. 6.

1 11. At the sale, defendant/ counterclaimant SFR placed the highest cash bid of \$22,000. *Id.*

2 **B. Additional Findings of Fact**

3 12. In June 2005, Guillermo and Sandra Carey obtained a purchase money loan in the
4 original principal amount of \$344,685 from Countrywide Home Loans, Inc., which was secured
5 by a deed of trust encumbering the property. The deed of trust identified Countrywide Home
6 Loans, Inc. as the lender, and Mortgage Electronic Registration Systems, Inc. (“MERS”) as
7 nominee for the lender and lender’s successors and assigns as the record beneficiary. A copy of
8 the deed of trust was recorded on July 6, 2005, in the Washoe County Recorder’s Office as
9 document number 3241354. *See* Nationstar Trial Exhibit No. 1.

10 13. On May 2, 2011, the deed of trust was assigned from MERS to BAC Home Loans
11 Servicing, LP fka Countrywide Home Loans Servicing LP. It was recorded in the Washoe County
12 Recorder’s Office as document number 3998967. *See* Nationstar Trial Exhibit No. 2.

13 14. On June 17, 2011, Bank of America, N.A., as successor by merger¹ to BAC Home
14 Loans Servicing, LP fka Countrywide Home Loans Servicing LP, tendered \$1,008.00 to Curti
15 Ranch in an attempt to satisfy the HOA’s super priority lien. Curit Ranch rejected the tender.

16 15. On December 26, 2012, MERS recorded another assignment, this time transferring its
17 interest in the property to U.S. Bank National Association for the Benefit of the Certificateholders
18 CSFB Mortgage Securities Corp. Adjustable Rate Mortgage Trust 2005-11 Adjustable Rate
19 Mortgage-Backed Pass-through Certificates, Series 2005-11 (“U.S. Bank”). It was recorded in the
20 Washoe County Recorder’s Office as document number 4188430. *See* Nationstar Trial Exhibit No.
21 3.

22 16. Curti Ranch proceeded with the non-judicial foreclosure sale on September 19, 2013,
23 through which SFR purchased the property. Nationstar’s quiet title claim arises from this HOA
24 foreclosure sale.

25
26
27 ¹ Nationstar motioned the court to take judicial notice of 16 publicly recorded documents regarding the at
28 issue property and documents regarding the merger of BAC Home Loans Servicing with Bank of America.
The court need not take judicial notice to consider the contents of these documents when deciding this case
after a bench trial. Accordingly, the court has considered all relevant documents cited in Nationstar’s motion
(ECF No. 128) and denies the motion.

1 17. On November 4, 2013, Bank of America, N.A. recorded an assignment which
2 transferred Countrywide Home Loans, Inc.'s interest in the property to Nationstar. This document
3 was recorded in the Washoe County Recorder's Office as document number 4296102. *See*
4 Nationstar Trial Exhibit No. 4.

5 18. On November 30, 2017, Nationstar filed a complaint against SFR and Curti Ranch. *See*
6 ECF No. 1.

7 21. On July 23, 2018, Nationstar recorded a Corrective Corporate Assignment of Deed of
8 Trust to the at issue property. This assigned the interest held by Bank of America, N.A., successor
9 by merger to BAC Home Loans Servicing, LP fka Countrywide Home Loans Servicing LP, to
10 Nationstar. This document was recorded in the Washoe County Recorder's Office as document
11 number 4835207. *See* Nationstar Trial Exhibit No. 5.

12 **IV. CONCLUSIONS OF LAW**

13 **A. Jurisdiction and Venue**

14 1. The court has diversity subject matter jurisdiction over this matter under 28 U.S.C.
15 § 1332. There is diversity of citizenship between plaintiff Nationstar (not a citizen of Nevada) and
16 defendant SFR (a citizen of Nevada), and the amount in controversy exceeds \$75,000.

17 2. The court has federal question jurisdiction 28 U.S.C. § 1331. Nationstar sought, in its
18 Complaint, a declaration that applying a facially unconstitutional statute, NRS Chapter 116, would
19 deprive it of its due process rights under the U.S. Constitution's Fourteenth Amendment.
20 Nationstar's right to a declaration that the HOA foreclosure sale did not extinguish its deed of trust
21 depended on resolution of a substantial question of federal law. Despite that claim being resolved,
22 the court retains supplemental jurisdiction over the remaining state law claims under 28 U.S.C. §
23 1367.

24 3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(1)-(2) because a
25 substantial part of the events and omissions giving rise to the claims occurred here, and the
26 property at issue and HOA involved are in this District.

27 4. The court has personal jurisdiction over SFR because this action arises out of SFR's
28 purposeful purchase of an interest in real property situated in Washoe County, Nevada, from Curti

1 Ranch. The court also has general personal jurisdiction because SFR is a Nevada limited liability
2 company.

3 **B. Stipulated Conclusions of Law**

4 The parties stipulated to the following in the parties' amended joint pretrial order (*see* ECF
5 Nos. 77):

6 5. Nevada foreclosure statute's notice provisions are constitutional.

- 7 i. The court finds that NRS § 107.090 is read into NRS § 116.1168(1). *See*
8 *SFR Invs. Pool 1, LLC v. Bank of N.Y. Mellon*, 422 P.3d 1248, 1253 (Nev.
9 2018) (holding that "NRS 116.31168 fully incorporated both the opt-in and
10 mandatory notice provisions of NRS 107.090").²

11 6. Nationstar's as-applied-due-process challenge fails.

- 12 i. The court further finds that Bank of America, N.A., Nationstar's
13 predecessor in interest, received the notice of default leading up to Curti
14 Ranch's foreclosure sale, and therefore, had actual notice of the HOA
15 foreclosure sale. *See* ECF No. 59 (noting that Nationstar conceded that Bank
16 of America received notice of default). *Supra* note 2.

17 7. Bank of America's tender of the super priority amount was proper.

- 18 i. Bank of America's tender letter accompanying the \$1,008.00 check was not
19 impermissibly conditional, as the bank had the right to insist on the
20 conditions set forth in the letter. Curti Ranch's rejection of the tender was
21 not justifiable. *See* ECF No. 59. *Supra* note 2.

22 8. SFR took title to the property subject to the first deed of trust.

- 23 i. Bank of America's valid tender satisfied the super priority portion of Curti
24 Ranch's lien. Therefore, when Curti Ranch foreclosed on its entire lien, the
25 sale was void as to the super priority portion, and Curti Ranch could not
26

27
28 ² This conclusion of law was not stipulated to by the parties, but because it fits best within this section, the court includes it here for the sake of clarity.

1 convey full title to SFR during the foreclosure. SFR's status as a bona fide
2 purchaser is irrelevant. *See* ECF No. 59. *Supra* note 2.

3 **C. Additional Conclusions of Law**

4 9. In Nevada, an action to quiet title arising from a homeowners' association foreclosure
5 sale is subject to a five-year statute of limitations period pursuant to NRS § 11.070. Because
6 Nationstar filed its complaint on November 30, 2017, its quiet title claim is timely and not barred
7 by the statute of limitations.³ *See* ECF No. 59.

8 10. A quiet title action "may be brought by any person against another who claims an estate
9 or interest in real property, adverse to the person bringing the action, for the purpose of determining
10 such adverse claim." NRS § 40.010.

11 11. "In a quiet title action, each party must plead and prove his or her own claim to the
12 property in question." *Yokeno v. Mafnas*, 973 F.2d 803, 808 (9th Cir. 1992); *see also Chapman v.*
13 *Deutsche Bank Nat'l Trust Co.*, 302 P.3d 1103, 1106 (Nev. 2013) ("A plea to quiet title does not
14 require particular elements, but each party must plead and prove his or her own claim to the
15 property in question" (internal quotations omitted)).

16 12. "To have standing to assert a quiet title claim, a plaintiff must have a current claim to
17 the land in dispute." *1597 Ashfield Valley Trust v. Federal National Mortg. Ass'n Sys.*, Case No.
18 2:14-cv-2123 JCM (CWH), 2015 WL 4581220, at * 9 (D. Nev. July 28, 2015).

19 13. While the beneficiary and assignee of a Deed of Trust has standing to assert the rights
20 held by its predecessor in interest, "the burden of proof rests with the plaintiff to prove a good title
21 in himself." *Velazquez v. Mortg. Electronic Registration Sys., Inc.*, Case No. 2:11-cv-576 JCM
22 (RJJ), 2011 WL 1599595, at *2 (D. Nev. April 27, 2011) (citing *Breliant v. Preferred Equities*
23 *Corp.*, 918 P.2d 314, 318 (Nev. 1996)); *Interim Capital LLC v. Herr Law Group, Ltd.*, Case No.
24 2:09-cv-01606-KJD-LRL, 2011 WL 7047062, at *6 (D. Nev. Oct. 21, 2011) ("The general rule of
25 assignments is that the transferee has the same rights as the transferor.").

26 ³ Nationstar's proposed findings of fact and conclusions of law (ECF No. 126) provides that this is a
27 stipulated conclusion. However, given that SFR argued that the court should reconsider this prior ruling, it
28 does not appear to the court that SFR stipulated to this legal conclusion. Regardless, as discussed above in
Part I, the court declines to reconsider the issue, and maintains its prior ruling that a 5-year statute of
limitations period is applicable to Nationstar's quiet title claim.

1 14. “[A] complete chain of assignments linking [the moving party] to the record holder of
2 the mortgage, or a single assignment from the record holder of the mortgage,” will meet this
3 burden. *See U.S. Bank Nat. Ass’n v. Ibanez*, 941 N.E.2d 40, 53 (Mass. 2011).

4 15. The following assignments show a complete chain of title to the property ending with
5 Nationstar as the record beneficiary:

- 6 i. July 6, 2005: Deed of Trust identifies Countrywide Home Loans, Inc. as the
7 lender, and MERS as nominee for the lender and lender’s successors and
8 assigns as the record beneficiary. *See* Nationstar Trial Exhibit No. 1.
- 9 ii. May 2, 2011: Corporation Assignment of Deed of Trust Nevada from MERS to
10 BAC Home Loans Servicing, LP fka Countrywide Home Loans Servicing LP.
11 *See* Nationstar Trial Exhibit No. 2.
- 12 iii. July 23, 2018: Corrective Corporate Assignment of Deed of Trust from Bank
13 of America, successor by merger to BAC Home Loans Servicing, LP fka
14 Countrywide Home Loans Servicing LP, to Nationstar. *See* Nationstar Trial
15 Exhibit No. 5.

16 16. The following assignments are null and void because the assignor had no right or
17 interest in the property to assign:

- 18 i. December 26, 2012: Assignment of Deed of Trust from MERS to U.S. Bank.
19 *See* Nationstar Trial Exhibit No. 3. This assignment is a legal nullity because at
20 the time MERS attempted to assign its interest to U.S. Bank, it had already
21 assigned its interest to BAC Home Loans Servicing, LP fka Countrywide Home
22 Loans Servicing LP. *See* Nationstar Trial Exhibit No. 2. Because MERS held
23 no interest in the property, it could only assign what it had—nothing. *See RH*
24 *Kids, LLC v. Nationstar Mortg. LLC*, 448 P.3d 546, 2019 WL 4390762, at *1
25 n.2 (Nev. Sept. 12, 2019) (unpublished) (citing 6A C.J.S. § 111 (2019) (“An
26 assignee stands in the shoes of the assignor and ordinarily has only the rights
27 possessed by the assignor at the time of the assignment, and no more.”)); *J&K*
28 *USA, Inc. v. Bank of America, N.A.*, 448 P.3d 545, 2019 WL 4390761, at *1 n.2

(Nev. Sept. 12, 2019) (unpublished) (“Consequently, because the promissory note had already been negotiated to Fannie Mae at the time MERS executed the assignment, MERS lacked authority to transfer the promissory note, and the language in the assignment purported to do so had no effect.”). This assignment therefore did nothing to break or impair the chain of title to Nationstar.

- ii. November 4, 2013: Assignment of Deed of Trust from Countrywide Home Loans, Inc. to Nationstar. *See* Nationstar Trial Exhibit No. 4. This assignment is a legal nullity because at the time Countrywide Home Loans, Inc. attempted to assign its interest to Nationstar, it had already, via MERS, assigned its interest to BAC Home Loans Servicing, LP fka Countrywide Home Loans Servicing LP. *See* Nationstar Trial Exhibit No. 2. Because Countrywide Home Loans, Inc. held no interest in the property, it could only assign what it had—nothing. *See RH Kids*, 2019 WL 4390762, at *1 n.2; *J&K USA*, 2019 WL 4390761, at *1 n.2. While this assignment did not actually assign the beneficial interest to Nationstar, it also did nothing to break or impair the ultimate chain of title ending with Nationstar.

17. Based on the above chain of title, Nationstar is the proper assignee and current record beneficiary under the deed of trust. Therefore, Nationstar has standing to assert its quiet title claim in this case.

18. A claim for declaratory relief, as it relates to real property, may be brought by a party who has a legitimate interest in the property for the purpose of asking the court to declare that party’s rights in the property. *See* 28 U.S.C. § 2201; NRS § 30.040; *Shadow Wood HOA v. N.Y. Cmty. Bancorp.*, 366 P.3d 1105, 1109 (Nev. 2016) (reaffirming that “in an appropriate case, a court can grant equitable relief from a defective HOA lien foreclosure sale.”).

19. Because Nationstar, as the current record beneficiary, has a legitimate interest in the property, it may bring its claim for declaratory relief.

20. SFR has title to the property, subject to Nationstar’s first deed of trust.

///

1 **V. SFR’s SUPPLEMENTAL TRIAL BRIEF**

2 On the eve of trial, SFR filed a “Supplemental Trial Brief.” ECF No. 130. This brief was
3 actually a motion to dismiss the action, in which SFR argued that Nationstar is barred by the
4 election of remedies doctrine from obtaining any recovery from SFR because it already elected to
5 obtain money damages from Curti Ranch via a settlement agreement. *Id.* When the parties met in
6 open court the next day, Nationstar was unaware of the filing. The court therefore ordered full
7 briefing on the issues SFR raised, which was complete on December 5, 2019. *See* ECF Nos. 133
8 & 135.

9 First, SFR did not waive its right to assert the election of remedies doctrine defense as it
10 asserted the defense in its Answer. *See* ECF No. 60 at 8 (“The Bank is pursuing two inconsistent
11 remedies in violation of the election of remedies doctrine.”). Nationstar was therefore on notice
12 that SFR would likely argue that a damages award and a declaratory judgment award were
13 inconsistent under the doctrine. Accordingly, SFR is not barred from now asserting the defense.

14 Second, the court’s prior rulings remain intact: (1) Bank of America, Nationstar’s
15 predecessor-in-interest, tendered the super priority amount in full and it was not impermissibly
16 conditional; (2) because the super priority amount was paid in full, Curti Ranch’s foreclosure sale
17 on the super priority portion was void; (3) because the foreclosure as to the super priority was void,
18 the foreclosure did not extinguish the first deed of trust; and (4) therefore, SFR purchased the
19 property subject to the first deed of trust. ECF No. 59. In its prior order, the court did not grant
20 Nationstar’s motion for summary judgment because the court found that Nationstar had failed to
21 show it was the record beneficiary of the first deed of trust. *Id.* As discussed above, while the
22 beneficiary and assignee of a Deed of Trust has standing to assert the rights held by its predecessor-
23 in-interest, “the burden of proof rests with the plaintiff to prove a good title in himself.” *Velazquez*,
24 2011 WL 1599595, at *2 (citing *Breliant*, 918 P.2d at 318. After hearing argument from the parties
25 and reviewing the evidence in light of those arguments, the court found that Nationstar had
26 presented a complete chain of assignments linking it to the original beneficiary under the deed of
27 trust, successfully meeting its burden to prove good title in itself. Accordingly, SFR purchased
28

1 the property subject to Nationstar's first deed of trust. Therefore, the court declines to entertain the
2 parties' arguments regarding any of the above established findings.

3 Finally, SFR asks the court to set aside this finding, and instead find that because Nationstar
4 reached a settlement with Curti Ranch, Nationstar is no longer entitled to the declaratory judgment.
5 The court reviewed SFR's cited case, *Nevada Association Services Inc. v. Las Vegas Rental &*
6 *Repair, LLC*, and finds that this case does not prohibit the court from declaring that the first deed
7 of trust encumbers the property simply because Nationstar has reached a settlement with Curti
8 Ranch. 432 P.3d 744 (Nev. Dec. 27, 2018) (unpublished). As Judge Navarro discussed in *Bank of*
9 *America, N.A. v. Berberich*, unlike the lower court in *Nevada Association Services*, which
10 "concluded that the bank's deed of trust remained unaffected on the property, yet still awarded the
11 bank's alternatively requested relief of damages resulting from its deed of trust being
12 extinguished," that is not the resulting remedy in this case. *Berberich*, Case No. 2:16-cv-00279-
13 GMN-CWH, 2019 WL 1442168, at *6 n. 3 (D. Nev. March 29, 2019) (citing *Nevada Association*
14 *Services*, 2018 WL 6829004, at *2) (emphasis added). Here, the court is only awarding one
15 remedy: it declares that the first deed of trust, of which Nationstar is the record beneficiary, remains
16 on the property. It has not awarded any damages. Nationstar's choice to settle its claims separately
17 with Curti Ranch does not affect this ruling. Accordingly, SFR's supplemental trial brief/ motion
18 to dismiss (ECF No. 130) is denied.

19 **VI. ORDER & JUDGMENT**

20 IT IS THEREFORE ORDERED that defendant's oral motion to reconsider the court's
21 prior ruling on the statute of limitations for Nationstar's quiet title claim (*see* oral argument at trial,
22 ECF No. 131) is **DENIED**.

23 IT IS FURTHER ORDERED that SFR's motion in limine to exclude the corrective
24 assignment recorded July 23, 2018, from evidence (ECF No. 88) is **DENIED**.

25 IT IS FURTHER ORDERED that Nationstar's motion in limine to exclude reference,
26 testimony, argument and documents concerning prior acts and other properties and litigation (ECF
27 No. 89) is **DENIED as moot**.

28 ///

1 IT IS FURTHER ORDERED that plaintiff's motion for judicial notice (ECF No. 128) is
2 **DENIED.**


3 IT IS FURTHER ORDERED that defendant's supplemental trial brief/ motion to dismiss
4 (ECF No. 130) is **DENIED.**

5 As to the issue before the court at the bench trial, IT IS FURTHER ORDERED,
6 ADJUDGED AND DECREED as follows:

- 7 a. SFR took title to the property located at 480 Cicada Ct., Reno, Nevada 89521 subject
8 to the deed of trust recorded against the property on July 6, 2005, in the Washoe County
9 Recorder's Office as document number 3241354.
- 10 b. Nationstar's deed of trust was not extinguished by Curti Ranch's HOA NRS Chapter
11 116 foreclosure sale;
- 12 c. SFR or its successors, assigns or agents, are enjoined from conducting any sale,
13 transfer, or encumbrance of the property where its title is claimed to be superior to the
14 deed of trust or not subject to the deed of trust.
- 15 d. SFR is required to pay all taxes, insurance and homeowners' association dues during
16 the pendency of any appeal that may be taken and until such time as this Order and
17 Judgment, if ever, is reversed;
- 18 e. SFR's counterclaims against Nationstar are denied as moot;
- 19 f. Nationstar's remaining claims against SFR are denied as moot;
- 20 g. The Notice of Lis Pendens filed by Nationstar and recorded against the property on
21 December 23, 2017, in the Washoe County Recorder's Office as document number
22 4771596, is hereby expunged.

23
24 IT IS SO ORDERED.

25 DATED this 16th day of December, 2019.

26
27 
28 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE